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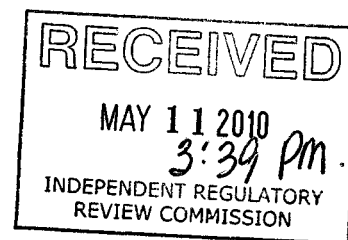
House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

May 11, 2010

2817

COMMITTEES

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CAPITOL PRESERVATION, CHAIRMAN
GAMING OVERSIGHT



Mr. Kim Kaufman, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Kaufman:

On behalf of the Republican Members of the House Education Committee, I am providing comments on the Pennsylvania Pre-K Counts program requirements regulatory package, #006-319. As we have noted in previous correspondence, the regulations contain important first steps toward ensuring that the Pre-K Counts program is effective, cost-efficient, and serves the children in the Commonwealth who would benefit the most from quality, early learning programs.

We appreciate the revised language proposed by the Department of Education (PDE) addressing the concerns raised through the tolling process, and we recognize in particular the changes related to the program guidelines and standards. As stated in the revised regulations, PDE will provide program announcements to approved providers to "provide guidance and direction regarding application, implementation and reporting requirements" rather than mandating compliance with departmental guidelines that have not been vetted through the recognized public input process set forth in the Commonwealth Documents Law.

As noted in our initial correspondence, PDE was commended for taking steps to maximize resources through allowing approved providers to access multiple funding sources. However, we expressed concern regarding the process of "braiding" or combining all the funds together. Please note the following information which highlights the need for adjustment to the regulatory language.

The Pre-K Counts Annual Report states that the following programs provide early learning services and programs: Child Care Works, Early Intervention, federal Head Start, Head Start Supplemental Assistance Program, Keystone STARS, Nurse-Family Partnership, Parent-Child Home program, Pennsylvania Pre-K Counts, pre-kindergarten funded through the Accountability Block Grant and finally, school-based pre-kindergarten programs.

In 2007-08, PDE announced that hundreds of millions of taxpayer funds were expended for Child Care Works, Keystone STARS, Pre-K Counts and Head Start Supplemental Assistance programs. These programs cross two State agencies, participation varies according to the individual programs' enabling legislation or program policies, and certain program providers can access only certain funding sources. The draft regulations only restate the Act 45 requirement that approved providers maintain the appropriated Pre-K Counts funds in a separate account despite the ability to access multiple funding sources,

As noted, Pre-K Counts approved providers can access federal, State and local funds. Therefore, the Federal Managers' Financial Integrity Act (FMFIA) of 1982 which encompassed accounting and administrative controls including program, operational, and administrative areas is applicable. An OMB circular specific to FMFIA states that the agency head must establish internal controls that "reasonably ensure that: "(i) obligations and costs are in compliance with applicable law; (ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use or misappropriation; and (iii) revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets." The three objectives of internal control are to ensure the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. Noncompliance with certain federal programs requirements may result in the repayment of the federal funds with possible penalties.

Due to the magnitude of funds available for early childhood learning programs, the variety of providers offering the program (ranging from group day care homes to school districts), and the fact that the program is administered across several State agencies, the type of internal controls ensuring proper spending and compliance with program requirements must be clearly delineated. It is important that agency heads and program managers establish program regulations that limit the Commonwealth's financial exposure in this area.

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Additionally, as noted in the revised regulations and related PDE correspondence, changes were made with respect to the "inclusive environment" language. However, the draft retains the language requiring children with disabilities constitute no more than 20% of the initial enrollment. The differentiation of "initial enrollment" versus during the school year is noted; however, establishing specific criteria or targets for placement of children with disabilities continues to be a concern and may depend upon the interpretation of the federal regulations in 34 CFR 300.320 and 300.321 specific to special education guidelines.

Finally, there is a wide range of approved providers in the Pre-K Counts program, from group day care centers to school districts with an elected board of school directors. We continue to believe that certain components of the regulatory package contain mandates for staffing, curriculum, etc., and, therefore, infringe upon the stated responsibilities of an elected board of school directors and local control of the community.

Despite the good faith effort of PDE, we continue to have concerns with certain issues, such as compliance with federal statutes, internal controls, and ensuring the State does not interfere with the responsibilities of other elected officials. Legislation has been introduced to address some of the issues enumerated above (i.e., a study of co-pays for other early learning programs, use of funds, etc.).

Thank you for your attention to these matters.

Sincerely,



Paul I. Clymer, Chairman
House Education Committee (R)

cc: Honorable Samuel Smith, House Republican Leader
Honorable James Roebuck, House Majority Education Committee Chairman
Honorable Jeffrey Piccola, Senate Majority Education Committee Chairman
Honorable Andrew Dinniman, Senate Democratic Education Committee Chairman
Honorable Thomas Gluck, Acting Secretary
Pennsylvania Department of Education
Honorable Harriett Dichter, Secretary, Pennsylvania Department of Public Welfare
Joe Torsella, Chairman of the State Board of Education
James M. Smith, IRRRC Regulatory Analyst